



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/787,529

02/26/2004

Francis X. Shields

10022-442

6461

28164 7590 09/23/2008  
ACCENTURE CHICAGO 28164  
BRINKS HOFER GILSON & LIONE  
P O BOX 10395  
CHICAGO, IL 60610

EXAMINER

WONG, ERIC TAK WAI

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

09/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/787,529	<b>Applicant(s)</b> SHIELDS ET AL.	
	<b>Examiner</b> ERIC T. WONG	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 3693

## DETAILED ACTION

### *Priority*

1. Examiner notes there is an outstanding petition for an unintentionally delayed claim for priority. As such, Examiner has provided references which qualify as prior art assuming the claim for earlier priority is granted.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Examiner's note:** Examiner has pointed out particular references contained in the prior art of record in the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the **entire** reference as potentially teaching all or part of the claimed invention, as well as the content of the passage as taught by the prior art or disclosed by the Examiner.

3. Claims 1-8, 10-11, 24, 25, 28 rejected under 35 U.S.C. 102(b) as being anticipated by CAL PX ("Power Exchange Settlement and Billing Protocol (PSABP)").

4. Regarding claims 1 and 24, CAL PX teaches receiving by the spot market clearing house data sent from the spot market operator indicative of an initial settlement amount for at least one trade in a predetermined period; sending an initial clearing statement from the spot market clearing house to at least one clearing member based on the data indicative of the initial

Art Unit: 3693

settlement amount; recording by the spot market clearing house a funds transfer in accordance with the initial clearing statement before recording a funds transfer in accordance with the revised clearing statement, receiving by the spot market clearing house data sent from the spot market operator indicative of a revised settlement amount for the trade, the data indicative of the revised settlement amount being different from the data indicative of the initial settlement amount; sending a revised clearing statement from the spot market clearing house to the clearing member based on the data indicative of the revised settlement amount; and recording by the spot market clearing house a funds transfer in accordance with the revised clearing statement (see section 5.3.4).

5. Regarding claims 2 and 25, CAL PX teaches wherein the commodity comprises electricity (see section 4.2.1).
6. Regarding claim 3, CAL PX teaches wherein the trades comprise real-time trades (see section 5.1.3).
7. Regarding claim 4, CAL PX teaches wherein the trades comprise day-ahead trades (see section 5.1.3).
8. Regarding claim 5, CAL PX teaches wherein the predetermined period comprises one trading day (see section 5.3.3).
9. Regarding claim 6, CAL PX teaches wherein the data indicative of an initial settlement amount comprises aggregated data indicating a net settlement amount for a participant in the spot market (see section 5.2.2, 5.3.4).
10. Regarding claims 7 and 28, CAL PX teaches wherein the data indicative of an initial settlement amount relates to an executed trade; wherein the data indicative of the initial settlement amount is based on an estimate of an amount of commodity transferred

Art Unit: 3693

corresponding to the executed trade; and wherein data indicative of the revised settlement amount is based on a measured amount of the commodity transferred (see section 4.3.1).

11. Regarding claim 8, CAL PX teaches wherein the data indicative of revised settlement amounts are based on power line measurements (see section 4.3.1).

12. Regarding claim 10, CAL PX teaches wherein receiving by the spot market clearing house data sent from the spot market operator further comprises receiving data indicative of at least one revised settlement amount for at least one trade in a period prior to the predetermined period; and wherein the initial clearing statement is based on the data indicative of an initial settlement amount and the revised clearing statement is based on the data indicative of the revised settlement amount (see section 5.3.4).

13. Regarding claim 11, CAL PX teaches wherein the data indicative of the initial settlement amount and the data indicative of the revised settlement amount comprises a net settlement amount, the net settlement amount comprising a single number that the participant owes to or is owed from the spot market operator (see section 5.3.4).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 9, 12-23, 26-27, 29-30 rejected under 35 U.S.C. 103(a) as being unpatentable over CAL PX in view of Shimko et al. (US Patent No. 7,139,730 B1).

Art Unit: 3693

16. Regarding claims 9, 12, 21, 26, and 29 CAL PX do not explicitly teach determining by the spot market clearing house a performance bond for at least some of the participants based on the trades for a current day of trading and including the performance bond information on the clearing statement. Shimko et al. teaches calculating performance bonds by a clearing house for participants based on their trades for a current day of trading (see column 3 lines 14-22). It would have been obvious to one skilled in the art at the time of invention to modify the clearing house of Winter et al. with calculating performance bonds for a current day of trading as taught by Shimko et al. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house. Examiner asserts that it was old and well known in the art at the time of invention to include margin information on a clearing statement (eg. a margin call). Thus, it would have been obvious to one of ordinary skill in the art to modify the method of CAL PX further to include the performance bond information on the clearing statement. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

17. Regarding claim 18, CAL PX does not explicitly teach determining a performance bond by analyzing aggregated settlement amounts. Shimko et al. teaches determining a performance bond by analyzing aggregated settlement amounts (see column 5, lines 62-67). It would have been obvious to one of ordinary skill in the art at the time of invention to further modify the method of clearing of CAL PX to include determining a performance bond by analyzing aggregated settlement amounts. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

18. Regarding claims 22 and 27, CAL PX does not explicitly teach determining a number of days to collateralize; determining positive exposures of trades for a participant with at least one spot market operator for most recent days trading equal to the number of days to collateralize;

Art Unit: 3693

and statistically analyzing the determined positive exposures. Shimko et al. teaches collateralizing for a short time period and statistically analyzing the determined positive exposures. Therefore, it would have been obvious to one of ordinary skill in the art to modify the clearing house of Winter et al. with determining a number of days to collateralize; determining positive exposures of trades for a participant for most recent days trading equal to the number of days to collateralize; and statistically analyzing the determined positive exposures. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

19. Regarding claim 23, CAL PX does not explicitly teach determining position exposures of trades comprises determining position exposures of trades for a participant with multiple spot market operators. Shimko et al. teaches determining position exposures of trades for a participant with multiple counterparties (see column 3 lines 14-22). Therefore, it would have been obvious to one of ordinary skill in the art to modify the clearing house of Winter et al. with determining position exposures of trades for a participant with multiple spot market operators. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk taken by the clearing house.

Art Unit: 3693

***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3693

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

ERIC T. WONG  
Examiner  
Art Unit 3693

September 19, 2008